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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 21, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

EARL N. GOODMAN, et al.,
Complainants

v.

CASE NO. PUE-2002-00074

LAND'OR UTILITY COMPANY, INC.,
Defendant

ORDER

On January 28, 2002, a petition signed by twenty-one customers of Land'Or Utility Company, Inc. ("Land'Or" or "Company"), asserting that Land'Or was engaging in discriminatory billing practices, was filed with the State Corporation Commission ("Commission"). The essence of the petitioners' complaint is that Land'Or has charged them availability fees for multiple consolidated lots and has not charged others who are similarly situated.

By Order dated May 10, 2002, the Commission docketed the matter and directed Land'Or to file a response to the petition, and permitted the petitioners to file a reply to the Company's response. Land'Or filed its response to the petition on May 24, 2002. In its response, Land'Or denies that it has discriminated against petitioners and avers that it has charged such availability fees in an effort to comply with, and enforce, its

filed tariff. The Company states that, if the Commission concludes that the current tariff does not permit it to enter into agreements with customers that would allow the availability fees to be waived for contiguous lots in the future, it requests an amendment to its tariff to permit such agreements. However, the Company asserts that a customer seeking such an agreement should be required to pay past due availability charges prior to execution of an agreement. On behalf of the petitioners, Earl N. Goodman, one of the complainants, filed a reply to the Company's response on May 31, 2002. Mr. Goodman stated that the Company's proposal is discriminatory because it requires payment of availability fees by those customers without prior agreements with the Company but doesn't require such payment from customers with these agreements.

NOW THE COMMISSION, having considered the pleadings, finds that § 56-234 of the Code of Virginia requires Land'Or to charge uniform rates to its customers receiving service under like conditions. Therefore, all customers purchasing service from Land'Or under its existing tariff must be charged uniformly, whether such customers have separate contracts with the Company or not.

The previous owner of the Company interpreted Land'Or's tariff to permit owners of certain contiguous lots to pay only one availability charge or metered water service charge, albeit

through a separate contract with the customer. According to Land'Or's response to the petition, its current construction of the tariff does not permit such waiver of availability fees, unless modified as proposed by the Company. However, Land'Or does not propose to bill the charges to those that signed agreements with the previous owner of the Company.

The issue before us is whether the Company's current application of its tariff contravenes its duty to charge uniformly under § 56-234 of the Code of Virginia. By charging multiple availability or metered water service fees to the petitioners and not to those similarly situated customers having separate agreements with the Company, Land'Or has indeed treated one set of customers discriminatorily. Land'Or must apply its tariff consistently to all customers. So long as the Company waives the charges for certain customers, it may not charge others similarly situated. We will not in this case consider Land'Or's proposed change to its tariff. If Land'Or wishes to clarify its tariff, it may do so as part of its next rate case or through a separate filing.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-234 of the Code of Virginia, Land'Or shall charge uniform rates to its customers receiving service under like conditions. Therefore, all customers purchasing service from Land'Or under its existing tariff must be charged

uniformly, whether such customers have separate contracts with the Company or not.

(2) The decision of the Commission described herein shall have no ratemaking implications.

(3) There appearing nothing further to be done in this matter, it is hereby dismissed.